

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

**Kildare County**

**Planning Register Reference Number: 15/555**

An Bord Pleanála Reference Number: PL 09.247019

**APPEAL** by Michael Higgins of Kildangan, Monasterevin, County Kildare and by Kildangan Community Association of 4 Bridgeside Cottages, Kindangan, Monasterevin, County Kildare against the decision made on the 6<sup>th</sup> day of July, 2016 by Kildare County Council to grant permission to Soroban Limited care of Brian Connolly and Associates of “The Studio”, Wood’s Way, Clane, County Kildare for development comprising an application submitted to the planning authority on the 1<sup>st</sup> day of July, 2015 as follows: demolition of existing bungalow, cottage and outbuildings and the construction of a single storey commercial unit and 17 number dwellings consisting of seven “Type A” four bedroom bungalows, three “Type B” four bedroom bungalows, three “Type C” four bedroom dormers, four “Type D” three bedroom semi-detached linked two-storey houses, pedestrian access to Abbots Wood and all ancillary site works, **as revised by further public notices received by the planning authority on the 9<sup>th</sup> day of June, 2016 as follows:** construction of three number single storey commercial units in one block, amendments to site layout configuration, construction of 15 number dwellings including change of house design consisting of five “Type A” four bedroom bungalows, two “Type A1” four bedroom bungalows, one “Type A2” four bedroom bungalow, three “Type B” four bedroom bungalows, two “Type C” three bedroom semi-detached two-storey dwellings, two “Type D” two bedroom semi-detached two-storey dwellings and all ancillary site works at Kilbeg, Kildangan, County Kildare in accordance with the plans and particulars lodged with the said Council.

## **DECISION**

**GRANT permission for 10 number houses on the southern portion of the site in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below. REFUSE permission for three number commercial units and five houses on the northern portion of the site based on the reasons and considerations marked (2) under.**

## **MATTERS CONSIDERED**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **REASONS AND CONSIDERATIONS (1)**

Having regard to the nature, scale and design of the proposed development within an area designated as 'Village Centre' in the Kildare County Development Plan 2011 – 2017 and to the established character and pattern of development in the vicinity of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of adjoining or adjacent property or the amenities of the area, would not be prejudicial to public health, would not endanger public safety by reason of traffic hazard and would be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board shared her concerns that the proposed development would provide for a poor quality of streetscape but considered that the proposed housing development on the southern portion of the site could be satisfactorily accommodated without jeopardising the potential of the northern portion of the site to accommodate a suitably designed commercial or mixed use development.

### **CONDITIONS**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 31<sup>st</sup> day of May, 2016 and on the 9<sup>th</sup> day of June, 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. This permission is for 10 houses only. The three number commercial units and the five houses (houses numbers 1 to 5 inclusive) indicated on Drawing Number P-1386-01 received by the planning authority on the 31<sup>st</sup> day of May, 2016 shall be omitted from the proposed development. Otherwise, the layout of the proposed development shall be in accordance with this layout drawing.

**Reason:** In the interest of clarity.

3. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

**Reason:** In the interests of visual and residential amenity.

4. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

5. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

6. Prior to commencement of development, proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority.

**Reason:** In the interest of orderly development.

7. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

**Reason:** In the interests of amenity and public safety.

8. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, including boundary treatment, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The scheme shall include a timescale for its implementation.

**Reason:** In the interest of visual amenity.

9. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and traffic management measures.

**Reason:** In the interests of public safety and residential amenity.

10. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

11. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 96(4) and 96(2) and 3 (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

12. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

13. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

14. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of works to the existing railway bridge in Kildangan. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

## **REASONS AND CONSIDERATIONS (2)**

The Board considered that the proposed commercial units and five houses (houses numbers 1 – 5 inclusive) as indicated on Drawing Number P-1386-01 received by the planning authority on the 31<sup>st</sup> day of May, 2016 would fail to adequately respond to the unique characteristics of the site, would not adequately contribute to the creation of a sense of place and would create a poor quality of streetscape at this strategic site designated as forming part of the 'Village Centre' in the Kildare County Development Plan 2011 – 2017. The proposed development would, therefore, contravene development plan policy and would be contrary to the proper planning and sustainable development of the area.

---

**Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.**

**Dated this            day of            2016.**